NOTIFICATION. 875

No. L.D. 2400—Legis. 4-51-126, dated Bangalore, 25th March 1952.

Ordered that the Indian Standards Institution (Certification Marks) Act, 1952 (Central Act No. XXXVI of 1952), published in the *Gazette of India*, Part II, Section 1, dated the 21st March 1952, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,
N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA. 876

MINISTRY OF LAW.

(Received assent on 21st March 1952.)

THE INDIAN STANDARDS INSTITUTION (CERTIFICATION MARKS) ACT, 1952 (XXXVI of 1952).

AN

ACT

to provide for the standardisation and marking of goods.

BE it enacted by Parliament as follows :—

1. *Short title and extent.*—(1) This Act may be called the Indian Standards Institution (Certification Marks) Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "article" means (as respects standardisation and marking) any substance, artificial or natural, or partly artificial or partly natural, whether raw or partly or wholly processed or manufactured ;

(*b*) "covering" includes any stopper, cask, bottle, vessel, box, crate, cover, capsule, case, frame, wrapper or other container ;

(*c*) "Indian Standard" means the standard (including any tentative or provisional standard) established and published by the Indian Standards Institution, in relation to any article or process, indicative of the quality and specification of such article or process ;

(*d*) "Inspector" means an Inspector appointed under Section 8 ;

(*e*) "Institution" means the Indian Standards Institution set up under the Resolution of the Government of India in the late Department of Industries and Supplies No. 1 Std. (4)/45, dated the 3rd day of September, 1946, and registered under the Societies Registration Act, 1860 (XXI of 1860) ;

(*f*) "licence" means a licence granted under this Act to use the Indian Standards Institution Certification Mark in relation to any article or process which conforms to the Indian Standard ;

(*g*) "mark" includes a device, brand, heading, label, ticket, pictorial representation, name, signature, word, letter or numeral or any combination thereof ;

(*h*) "prescribed" means prescribed by rules or regulations made under this Act ;

(*i*) "process" includes any practice, treatment and mode of manufacture of any article ;

(*j*) "registering authority" means any authority competent under any law for the time being in force to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent ;

(*k*) "specification" means a description of an article or process as far as practicable by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, material, mode of manufacture or other characteristics to distinguish it from any other article or process;

(*l*) "Standard Mark" means the Indian Standards Institution Certification Mark specified by the Indian Standards Institution to represent a particular Indian Standard;

(*m*) "trade mark" means a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark, whether with or without any indication of the identity of that person;

(*n*) an article is said to be marked with a Standard Mark if the article itself is marked with a Standard Mark or any covering containing, or label attached to, such article is so marked.

3. *Powers and duties of the Institution.*—The Institution may exercise such powers and perform such duties as may be assigned to it by or under this Act, and, in particular, such powers include power to—

(*a*) establish and publish, in such manner as may be prescribed, the Indian Standard in relation to any article or process;

(*b*) specify a Standard Mark to be called the Indian Standard Institution Certification Mark, which shall be of such design and contain such particulars as may be prescribed to represent a particular Indian Standard;

(*c*) grant, renew, suspend or cancel, in such manner as may be prescribed, a licence for the use of the Standard Mark;

(*d*) levy such fees for the grant or renewal of any licence as may be prescribed;

(*e*) make such inspection and take such samples of any material or substance as may be necessary to see whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without licence;

(*f*) do such other acts as may be prescribed.

4. *Authentication of orders and other instruments of the Institution.*—All orders and decisions of, and all other instruments issued by, the Institution shall be authenticated by the signature of such officer or officers as may be authorised by the Institution in this behalf.

5. *Prohibition of improper use of Standard Mark.*—(1) No person shall use, in relation to any article or process, or in the title of any patent, or in any trade mark or design the Standard Mark or any colourable imitation thereof, except under a licence granted under this Act.

(2) No person shall, notwithstanding that he has been granted a licence, use in relation to any article or process the Standard Mark or any colourable imitation thereof unless such article or process conforms to the Indian Standard.

6. *Prohibition of use of certain names, etc.*—No person shall, except in such cases and under such conditions as may be prescribed, use without the previous permission of the Institution,—

(*a*) any name which so nearly resembles the name of the Indian Standards Institution as to deceive or likely to deceive the public or which contains the expression "Indian Standard" or any abbreviation thereof; or

(*b*) any mark or trade mark in relation to any article or process containing the expressions "Indian Standard" or "Indian Standard specification" or any abbreviation of such expressions.

7. *Prohibition of registration in certain cases.*—(1) Notwithstanding anything contained in any law for the time being in force, no registering authority shall—

(*a*) register any company, firm or other body of persons which bears any name, or

(*b*) register a trade mark or design which bears any name or mark, or

(*c*) grant a patent, in respect of an invention, which bears a title containing any name or mark,

if the use of such name or mark is in contravention of Section 5 or Section 6.

(2) If any question arises before a registering authority whether the use of any name or mark is in contravention of Section 5 or Section 6, the registering authority may refer the question to the Central Government, whose decision thereon shall be final.

8. *Inspectors.*—(1) The Institution may appoint as many Inspectors as may be necessary for the purpose of inspecting whether any article or process in relation to which the Standard Mark has been used conforms to the Indian Standard or whether the Standard Mark has been improperly used in relation to any article or process with or without licence, and for the purpose of performing such other functions as may be assigned to them.

(2) Subject to any rules made under this Act, an Inspector shall have power to—

(*a*) inspect any operation carried on in connection with any article or process in relation to which the Standard Mark has been used;

(*b*) take samples of any article, or of any material or substance used in any article or process, in relation to which the Standard Mark has been used;

(*c*) exercise such other powers as may be prescribed.

(3) Every Inspector shall be furnished by the Institution with a certificate of appointment as an Inspector, and the certificate shall, on demand, be produced by the Inspector.

9. *Power to obtain information, etc.*—Every licensee shall supply the Institution with such information, and with such samples of any material or substance used in relation to any article or process, as the Institution may require.

10. *Power to authorise the competent authority.*—(1) The Central Government may, in consultation with the Institution, by notification in the Official Gazette, direct that any power exercisable by the Institution by or under this Act shall, in relation to such matters and subject to such conditions as may be specified in the direction, be exercisable also by such

authority or such organisation as may be specified in the notification (hereinafter referred to as the 'competent authority').

(2) For avoidance of doubts, it is hereby declared that the Central Government may, by a like notification, withdraw the powers delegated to a competent authority under sub-section (1).

11. *Appeals.*—(1) Any person aggrieved by an order passed under clause (c) of Section 3, whether by the Institution or by a competent authority, may prefer an appeal to the Central Government.

(2) The appeal shall be presented in such form and manner and within such time as may be prescribed.

(3) The Central Government shall, in dealing with appeals under this section, follow such procedure as may be prescribed.

12. *Certain matters to be kept confidential.*—Any information obtained by an Inspector, competent authority, or the Institution from any statement made or information supplied or in any evidence given or from inspection made under the provisions of this Act shall be treated as confidential:

Provided that nothing in this section shall apply to the disclosure of any information for the purpose of prosecution under this Act.

13. *Penalty for improper use of Standard Marks, etc.*—(1) Any person who contravenes the provisions of Section 5 or Section 6 shall be punishable with fine which may extend to ten thousand rupees.

(2) Any court trying a contravention under sub-section (1) may direct that any property in respect of which the contravention has taken place shall be forfeited to the Government.

14. *Penalty for other offences.*—Whoever contravenes any of the provisions of this Act or of any rules made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one thousand rupees.

15. *Cognizance of offences by courts.*—(1) No court shall take cognizance of any offence punishable under this Act, save on complaint made by or under the authority of the Government or the Institution or by an officer empowered in this behalf by the Government or the Institution.

(2) No court inferior to that of a presidency magistrate or a magistrate of the first class specially empowered in this behalf shall try any offence punishable under this Act.

16. *Protection of action taken under this Act.*—No suit, prosecution or other legal proceeding shall lie against the Central Government or the Institution or any person acting under the authority of the Central Government or the Institution for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

17. *Act not to affect the operation of certain Acts.*—Nothing in this Act shall affect the operation of the Agricultural Produce (Grading and Marking) Act, 1937 (I of 1937) or the Drugs Act, 1940 (XXIII of 1940).

18. *Savings.*—Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

19. *Directions by the Central Government.*—(1) The Central Government may, if satisfied that the public interest so requires, by order in writing for reasons to be stated therein, give to the Institution general instructions to be followed by the Institution and such instructions may, notwithstanding

anything contained in the Societies Registration Act, 1860 (XXI of 1860), include directions to make or amend any bye-law relating to the composition of the Governing Body or other Committees of the Institution and its powers and functions in such form and within such period as may be specified in the order.

(2) In the exercise of its powers and performance of its duties, the Institution shall not depart from any general instructions issued under sub-section (1).

Explanation.—In this section, the expression "bye-law" includes all rules, or regulations (by whatever name called) which the Institution is competent to make in the exercise of the powers conferred on it under the Societies Registration Act, 1860.

20. *Power to make rules.*—(1) The Central Government may, subject to the condition of previous publication, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the procedure and manner in which the Indian Standard, in relation to any article or process, may be established and published ;

(*b*) the design of the Standard Mark in relation to each Indian Standard and the particulars which a Standard Mark may contain ;

(*c*) authorisation of competent authority under Section 10 ;

(*d*) the manner in which, and the conditions subject to which, a licence to use the Standard Mark may be granted, renewed, suspended or cancelled ;

(*e*) the levy of fees for the grant or renewal of any licence ;

(*f*) the mode of inspection by the Institution and the manner in which samples may be taken by it ;

(*g*) the powers and functions of the Institution ;

(*h*) the cases in which, and the circumstances under which, exemption may be granted from the prohibition contained in Section 6 ;

(*i*) the powers of Inspectors ;

(*j*) the form and manner in which and the time within which appeals may be preferred ; the procedure to be followed in hearing appeals ;

(*k*) the forms to be used under this Act ;

(*l*) any other matter which has to be, or may be, prescribed under this Act.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

21. *Power to make regulations.*—(1) The Institution may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the matters specified in clauses (*a*), (*b*) and (*f*) of sub-section (2) of Section 20.

K. V. K. SUNDARAM,
Secretary to the Government of India.